

Notice of Allowability

Application No.

10/618,076

Examiner

Stephen Gucker

Applicant(s)

KUBOTA ET AL.

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/13/07.
2. ☒ The allowed claim(s) is/are 7-9, 13-14-17, 19, renumbered as 1-9, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 10/6/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

1. Claim 7 is directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 15-17 and 19, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 6/15/06 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Art Unit: 1649

Authorization for this examiner's amendment was given in a telephone interview with Mae Joanne Rosok on 7/28/07.

An examiner's amendment to the record appears below.

In the claims:

Canceled claims 1, 3, 6, and 10-12.

Claim 7, line 3, inserted after "tissue":

--, and wherein the mature retinal neuronal cells comprise a bipolar cell, a horizontal cell, an amacrine cell, a ganglion cell, and a photoreceptor cell--.

Claim 13, lines 1-2, deleted: "The method according to either claim 11 or claim 12".

Claim 13, line 1, inserted at the beginning:

--A method for producing a retinal cell culture system--.

Claim 13, line 2, deleted "a" before "mature".

Claim 13, line 2, changed "neuronal cell" to --neuronal cells--.

Claim 13, line 2, changed "a cell isolated" to --cells isolated--.

Claim 13, line 3, deleted "an" before "embryonic".

Claim 13, line 3, changed "retinal cell" to --retinal cells--.

Claim 13, line 3, changed "neuronal cell is" to --neuronal cells are--.

Claim 13, line 4, inserted after "tissue":

--, and wherein the mature retinal neuronal cells comprise a bipolar cell, a horizontal cell, an amacrine cell, a ganglion cell, and a photoreceptor cell--.

In claim 15, lines 3-4, deleted the phrase "any one of claims 1, 3, and 6-10".

In claim 15, line 3, inserted after "according to": --claim 7--.

In claim 16, lines 3-4, deleted the phrase "any one of claims 1, 3, and 6-10".

In claim 16, line 3, inserted after "according to": --claim 7--.

In claim 17, line 3, deleted the phrase "any one of claims 1, 3, and 6-10".

In claim 17, line 3, inserted after "according to": --claim 7--.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gucker whose telephone number is 571-272-0883. The examiner can normally be reached on Mondays through Fridays from 0930 to 1800.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


Art Unit: 1649

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Stephen Gucker

August 3, 2007


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